

## Overbooking (Holidays/travel)

### What the law says

If your holiday plans are changed as a result of an **overbooking**, it is likely that the **agreement** between you and the provider of the travel or accommodation has been **breached** (broken). When a contract is breached in this way, you are entitled to claim **compensation** or a **refund** from the **provider**.

In law, the contract is made up of things like the booking conditions printed on the back of a ticket, a letter confirming a booking and information given in the brochure or by a travel agent.

If you have a problem with overbooking in connection with a **package holiday**, you will normally take action against the **tour operator**, **not** the provider of the transport or accommodation.

If you used your **credit card** to pay for the accommodation or travel and the cost was over £100, the credit card company may be **equally liable** for any breach of contract. This means you may be able to claim a refund from the credit card company.

### Overbooked flights

There are special rules covering overbooked flights from airports in the European Union. The rules also apply to flights from airports outside the European Union, but flying into a European Union airport, on a European Union airline. These rules apply only if you were not allowed to board the flight, not if you volunteered to take a different flight. Under these rules you can get compensation for the overbooking, as long as you meet certain conditions. You must have a valid ticket, which has been confirmed for the overbooked flight, and you must have checked in by the deadline given to you by the airline.

As long as you meet all these conditions you will be entitled to:-

- a full refund of your ticket and a free return flight to your first point of departure, if you need it; *or*
- another flight as soon as possible or at a later date of your choice.

You will also be entitled to:

- compensation in cash, or by cheque or bank transfer. The amount you will get depends on the length of your flight and how late you are in getting to your final destination; *and*
- two telephone phone calls, or emails, or telexes or faxes; *and*
- reasonable meals and refreshments if you have to wait for a later flight; *and*

- hotel accommodation if you are delayed overnight.

If your flight is overbooked the airline should give you a form stating what compensation is available.

If the rules applying to EU flights do not apply, you may still be able to get compensation for overbooking. You will need to check with your airline whether any compensation is available for your particular circumstances.

If your flight is **not covered by a compensation scheme**, you may still be able to get compensation by taking action in the courts for **breach of contract**. Also **check your travel insurance** to see if it covers you for delays caused by overbooking. If it does, it will probably be easier to claim on your insurance than through the courts.

## Overbooking on other forms of transport

If you were booked on a specific **ferry** or similar sailing, and you could not travel because of overbooking, you may be able to claim **compensation** from the provider, on the grounds of **breach of contract**. You could claim an amount for any loss you suffered as a result of the overbooking, for example, the cost of staying in a hotel until the next sailing. Also **check your travel insurance** to see if it covers you for delays caused by overbooking. If it does, it will probably be easier to claim on your insurance than through the courts.

You would **not** be entitled to compensation if you were travelling by **coach** or **train** unless you had tickets for a specified service, for example, the 10:51 London to Edinburgh express.

If the transport was booked as part of a **package holiday**, you would need to claim from the **tour operator**.

## Overbooked accommodation

If your holiday accommodation was overbooked and you could not stay there, the provider should offer you:-

- **a full refund**; *or*
- **alternative accommodation** of a similar standard to the one you booked. If you were **not satisfied with the alternative**, you can claim compensation only if you made it clear at the time that you were accepting the alternative **'under protest'**. Even then, a claim for compensation is only likely to be successful if the alternative was of **a lower standard** than the one you booked, or when you booked you made it clear that it was important that you stayed in a **particular type of accommodation**, for example, one which was wheelchair accessible or was close to sports facilities.

## How to solve your problem

Once you have decided what your rights are, you will need to contact the company responsible for providing the transport or accommodation. The following steps should solve your problem:-

- **contact the company**, and the credit card company if applicable, as soon as possible. Keep copies of your letters. Explain your problem calmly but firmly and ask for what you want, **a refund or compensation**. Send **proof** of your booking, including the dates of your holiday, confirmation letter or tickets. Send **photocopied evidence** of any **extra costs** you incurred, for example, hotel receipts, if you are claiming compensation. Send a copy of the letter to the **travel agent**, if the booking was made through one
- **if you are not satisfied with the response** and booked through a travel agent, find out if the agent is a member of **Association of British Travel Agents (ABTA)** or **Association of Independent Tour Operators (AITO)**. Both these organisations operate a conciliation service to help resolve disputes. Conciliation is usually free. Arbitration is chargeable and any decision will be **legally binding** and likely to prevent you taking court action. You can find details of ABTA and AITO at the end of this fact sheet.
- **if you decide not to use conciliation or arbitration**, write to the owner/manager of the company and the credit card company, if applicable, repeating your complaint and the steps you have taken so far. Say you are giving them fourteen days to resolve the problem or you will consider taking legal action. Send the letter by **recorded delivery** with a copy to the head office of the company, if applicable. **Keep copies** of all your letters and a note of any phone conversations you have in connection with the problem
- **if the company makes you an offer**, you can either accept or continue to **negotiate**. Be realistic in what you will accept. You may not get an improved offer by going to court.
- **if the company doesn't respond**, refuses to do anything, or makes a final offer you are unwilling to accept, your only other choice is to go to court. **Remember court is your last resort**. Before starting court action you need to consider whether you have sufficient **evidence**. You also need to find out if the company is **solvent**. It is not worth suing a person or company with no money.

**If you have lost money because of an overbooking, don't waste more money on a case you cannot win.**

## Organisations that deal with complaints about overbooking

### Association of British Travel Agents (ABTA)

ABTA represents travel agents and has a code of practice, which its members must follow. If one of its members breaks the code, ABTA's legal department will investigate the matter internally but it does not take up cases on a customer's behalf.

ABTA runs an **arbitration scheme**. There is a limit to the amount of compensation that you can claim under this scheme, and it does **not** deal with claims for compensation for illness or injury. You can contact them on **020 7637 2444** for advice and an application form. There is a fee, but this will be refunded if the claim is successful. The **deadline** for applying to use the service is nine months from the end of the holiday.

### Association of Independent Tour Operators (AITO)

The AITO represents independent tour operators and has a code of practice, which all its members should follow. It also runs an independent mediation service. If you want to use this service, there is a non-refundable fee. Contact AITO on: **020 8744 9280**

## Other CAB fact sheets that might be helpful

- Starting court action
- Package holidays
- Credit

This fact sheet is produced by [Citizens Advice](#), an operating name of The National Association of Citizens Advice Bureaux. It is intended to provide general information only and should not be taken as a full statement of the law on the subject. Please also note that the information only applies to England and Wales.

This fact sheet was last updated on 1 March 2005, and is reviewed on a monthly basis. If it is some time since you obtained this fact sheet, please contact your local Citizens Advice Bureau to check if it is still correct. Or visit our website - [www.adviceguide.org.uk](http://www.adviceguide.org.uk) - where you can download an up-to-date copy.